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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IN RE: U.S.S.N. 09/518,165 )  
)  
FILED: March 1, 2000 )  
)  
TITLE: METHOD FOR DETECTING )  
PRESENCE OF TARGET )  
BACTERIA OR A TARGET )  
COMPONENT )  
CARBOHYDRATE )  
ANTIGEN THEREOF )  
) GROUP ART UNIT: 1645  
)  
INVENTORS: V.A. Koulchin, N.J. ) EXAMINER: Ja-Na Hines  
Moore, E.V. Molokova )  
and M.K. Fent )

REQUEST FOR REMAND TO EXAMINER FOR CLARIFICATION OF FINAL  
REJECTION MAILED DECEMBER 11, 2003

Appellants hereby respectfully request remand to the Examiner of the concurrently filed appeal, for the purpose of obtaining clarification of the final rejection mailed December 11, 2003 in the following respect:

As part of the Response to Action mailed March 20, 2003, upon which the Final Rejection appealed from is based, the 22 page declaration of William J. Palin, Ph. D, who has spent some 35 years working in the field of immunology (in which the present invention clearly falls) was submitted to establish certain facts with respect to the state of the art in immunology. The Final Rejection, however, says nothing whatever about this declaration even though references to it are made repeatedly, commencing at page 22, and continuing

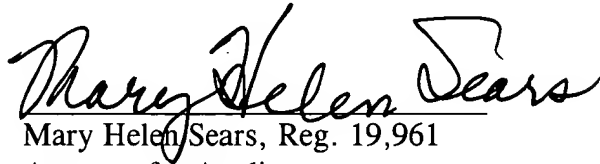
throughout that Response. See especially Response, pages 29, 30, 32, 33, and 37.

It is not at all clear from the ensuing Final Rejection mailed December 11, 2003 whether the Examiner even gave consideration to the Palin declaration in any respect since it is never mentioned therein. Nor is it at all clear, furthermore, that arguments in the Response specifically based upon averments in the Palin declaration were given consideration by the Examiner, since the Final Rejection makes no reference to them either.

Appellants are disabled to prepare a proper appeal brief absent the Examiner's submission of some statement of her views regarding this declaration, inasmuch as a major ground of refusal of the appealed claims is an alleged insufficiency of disclosure of the application. Dr. Palin's statement regarding the scope of knowledge available to those of ordinary skill in the art of immunology takes issue with this premise and supplies facts to rebut it. It is accordingly important that the Examiner either acknowledge that she has considered the declaration but adheres to her position notwithstanding it or, if she *has* failed to consider it, that she now do so. Such consideration, if not previously given, may even eliminate at least some issues on this appeal.

Grant of this request for remand, and resetting of the due date for the appeal brief until two months after issuance of the Examiner's response is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary Helen Sears". The signature is written in a cursive style with a horizontal line underneath the name.

Mary Helen Sears, Reg. 19,961

Attorney for Applicants

The M.H. Sears Law Firm, Chartered

910 Seventeenth Street, N.W., Suite 800

Washington, D.C. 20006

Telephone: (202) 463-3892

Telecopy: (202) 463-4852